1000r 1) ocuments In File



#### IN THE DISTRICT COURT OF THE FIFTH JUDICIAL DISTRICT OF THE STATE OF IDAHO, IN AND FOR THE COUNTY OF TWIN FALLS

IN RE THE GENERAL ADJUDICATION OF RIGHTS TO THE USE OF WATER FROM THE SNAKE RIVER BASIN WATER SYSTEM. CIVIL CASE NUMBER:

39576

Ident. Number: A63-04679 Date Received: 6/19/1990

Receipt No:

T017346

Received By:

#### NOTICE OF CLAIM TO A WATER RIGHT ACQUIRED UNDER STATE LAW

STATE OF IDAHO

Address:

DEPT. OF FISH & GAME

P.O. BOX 25

BOISE, ID

83707

Date of Priority:

JAN 01, 1895

3. Source: INDIAN CREEK

Trib. to: BOISE RIVER

4. Point of Diversion:

Township Range Section

1/4 of 1/4 of 1/4

County

01N

04E

29 30

SW SE

SW SE

ADA ADA

5. Description of diverting works:

DAM

6. Water is used for the following purposes:

Purpose FISH PROPAGATION From 01/01

To 12/31 C.F.S

(or) A.F.A.

3000.00

7. Total Quantity Appropriated is:

C.F.S. (and/or)

3000.00 A.F.A.

8. Total consumptive use is

Acre Feet Per Annum.

Non-irrigation uses:

FISH PROPAGATION, RESERVOIR FOR GAME FISH, WILDLIFE AND RECREATIO

10. Place of Use:

Township Range Section

1/4 of 1/4NW SW

Lot Use Acres

01N

04E

28

SW SW

FISH

FISH

A63-04679

Page

1

Date: 07/06/90

ens to the

10. Place of Use: Continued

Township 01N	Range 04E	Section 29	1/4 of SW	1/4 NE	Lot	Use FISH	Acres
0111	0.15	23	NW	NW		FISH	
			SW	NW		FISH	
			SE	NW		FISH	
			NE	SW		FISH	
			NW	SW		FISH	
			SW	SW		FISH	
			SE	SW		FISH	
			NE	SE		FISH	
			NW	SE		FISH	
			SW	SE		FISH	
			SE	SE		FISH	
		30	NE	NE		FISH	
			SE	NE		FISH	
			NE	SE		FISH	
			SE	SE		FISH	
		32	NE	NW		FISH	
			NW	NW		FISH	

- 11. Place of use in counties: ADA
- 12. Do you own the property listed above as place of use? NO
- 13. Other Water Rights Used: NONE
- 14. Remarks:

IDFG HAS A FLOOD EASEMENT WITH BLM.

- 15. Basis of Claim: STATUTORY CLAIM
- 16. Signature(s)
- (a.) By signing below, I/We acknowledge that I/We have received, read and understand the form entitled "How you will receive notice in the Snake River Basin Adjudication." (b.) I/We do do not wish to receive and pay a small annual fee for monthly copies of the docket sheet.

Number	οf	attachment	s:
Mamper	O.L	attathment	.a.

07/06/90 Date:

For Organizations:	
I do solemnly swear or affirm that I am	of
	Title
Organization , that I have	signed the foregoing
document in the space below as	of
	Title
and that the	statements contained in the
Organization	
foregoing document are true and correct.	Signature of Authorized Agent
	-
	mills and Organization
	Title and Organization
	Date
State of Idaho )	
) SS.	
County of)	
Subscribed and sworn (or affirmed) before me	thic day
subscribed and sworm (or arritmed) before me	aay
of 19	
	Notary Public
Seal	
	rat
My Commi	ssion Expires

A63-04679

4 C. H.

Page 3

Date: 07/06/90

MICHOFLIMED ATA 2.9 MM

IN THE DISTRICT COURT OF THE FIFTH JUDICIAL DISTRICT OF THE STATE OF IDAHO, IN AND FOR THE COUNTY OF TWIN FALLS

IN RE THE GENERAL ADJUDICATION OF RIGHTS TO THE USE OF WATER FROM THE SNAKE RIVER BASIN WATER SYSTEM. CIVIL CASE NUMBER: 39576

Ident. Number: A63-04679 Date Received: 6-19-90 Receipt No: T017346
Received By:

#### NOTICE OF CLAIM TO A WATER RIGHT ACQUIRED UNDER STATE LAW

1. Name:

STATE OF IDAHO

Address: DEPT. OF FISH & GAME

P.O. BOX 25

BOISE, ID

8372/0

2. Date of Priority: JAN 01, 1895

3. Source: INDIAN CREEK

Trib. to: BOISE RIVER

4. Point of Diversion:

Section 1/4 of 1/4 of 1/4 County Township Range ADA SW SW  $04\bar{\mathrm{E}}$ 29 01N ADA 30 SE SE

- 5. Description of diverting works: DAM
- 6. Water is used for the following purposes:

(or) A.F.A. To C.F.S Purpose From 3000.00 WILDLIFE STORAGE FISH 01/01 12/31 RECREATION STORAGE Propagation 01/01-12/31 3000.00

7. Total Quantity Appropriated is:

C.F.S. (and/or) 3000.00 A.F.A.

8. Total consumptive use is

Acre Feet Per Annum.

9. Non-irrigation uses: RESERVOIR FOR GAME FISH, WILDLIFE AND RECREATION

A63-04679

Page 1

Date: 02/14/89

10. Place of Use:

Township	Range	Section	1/4 of	1/4	Lot	Use	Acres
01N	04Ē	28	NW	SW		-WILD-S	Fish P.
			SW	SW		WILD S	5.1
		29	SW	NE		WILD S	t i
			NW	NW		WILD-S	! 7
			SW	NM		WILD S	13
			SE	NW		WILD-S-	χ1
			NE	SW		WILD-S	11
			NM	SW		WILD S	1+
			SW	SW		·WILD S	t i
			SE	SW		WILD S	O.
			NE	SE		WILD S	**
			NM	SE		WILD-S	91
			SW	SĒ		WILD S	11
	-		SE	SE		WILD S	ti
		30	NE	NE		WILD S	11
	•		SE	NE		WILD S	Ł
			NE	SE		WILD S	t <sub>r</sub>
			SE	SE		₩ <del>ILD-</del> \$	Ð
		32	NE	NM		WILD S	17
			NM	NM		WILD S	**

- 11. Place of use in counties: ADA
- 12. Do you own the property listed above as place of use? ¥ES  $\mathcal{N} \circ$
- 13. Other Water Rights Used:
- 14. Remarks: 1DF6 HAS A FLOOD EASEMENT WITH BUM
- 15. Basis of Claim: STATUTORY CLAIM

A63-04679

Page 2

Date: 02/14/89

16. Signature(s)
(a.) By signing below, I/We acknowledge that I/We have received, read and understand the form entitled "How you will receive notice in the Snake River Basin Adjudication." (b.) I/We do do not wish to receive and pay a small annual fee for monthly copies of the docket sheet.
Number of attachments:
For Organizations:
I do solemnly swear or affirm that I am (Issistant Director of
I do solemnly swear or affirm that I am <u>Ossistant Director</u> of <u>Fitle</u> Organization
Organization document in the space below as Acting Derector of
TDFG and that the statements contained in the
Organization
foregoing document are true and correct.  Signature, of Authorized Agent Cosis authorized Tools
LDF6
Title and Organization
3-15-50
Date
State of Idaho ) SS.
County of ada )
Subscribed and sworn (or affirmed) before me this 15th day
of March 1990 Doubly Jaken_
Notary Public
Seal Residing at Connett, Olako
My Commission Expires $(0/31/199)$

A63-04679

Page 3

Date: 02/14/89

4/5	(1)285 SRBA CLAIMS RECEIVING CHECKLIST 2		
CLA	IMANT'S NAME ID F\$67 CLAIM DENT. NO.	A63-0	4679
DAT	E RECEIVED $(-19-90)$ CK # $T017340$ AMOUNT \$ $91.51$	YES I	Require
1.	Is the name and address complete with zip code?	1113	*
2.	Is a priority date entered? Is the priority date acceptable in view of mandatory filing dates? See Adjudication Memos #1 and #4 to determine if a Permit is required.		* *
3.	(a) Is a source entered?		*
	(b) Is a tributary to entered? (if required) N/A	<u> </u>	·
4.	Is the legal description of the p.d. sufficient?	<u></u>	*
5.	Is there a description of the diverting works?		
6.	Are the water uses appropriate for the form? The short form is limited to domestic and stockwater uses with direct diversion. All claims that include storage or instream stockwater must use long form.		*
	Is the period of use included?	<u> </u>	<del></del>
	Is a quantity claimed for each use?		*
7.	Is a total quantity claimed entered?		. <u></u>
8.	If required is a consumptive use entered? N/A		
	Is the consumptive use correct? N/A		
9.	Are the non-irrigation uses listed properly? If this claim is on the short form, and more than one domestic use is listed, single ownership must be stated. If not under single ownership, see Adjudication Memo # 4		*
10.	Is (are) the place(s) of use and purpose(s) indicated?		*
	Is (are) the county(ies) entered?		<del></del>
	Is the ownership of p.u. checked?		<del></del>
	Are other water rights listed or "none" indicated?		- NOW
	· · · · · ·		<del></del>
	If required, are remarks correct? (If the claimant does not own the place of use, authority for filing the claim must be explained in the remarks.)		
	Is the basis of the claim indicated?		<u> </u>
	If the claimant requested a monthly docket sheet, is payment enclosed? (If yes, describe payment status in "Comments" below.) . N/A		<del></del>
17.	Is the claim signed by the claimant, and is the signature appropriate? Organizations must complete the organization block.	<u> </u>	*
18.	Has the claim been signed, sealed, and dated by a notary?	<u> </u>	*
19.	Was this claim filed on time, or was an extension granted?	<u> </u>	*
20.	Is the fee enclosed correct? Exempt		*
21.	If this claim is based on an existing water right, has the identification number been entered? N/A	4.	
22	Should this claim be data entered?		<del></del>
	Claim checked by: Quantum Date:	7-5	-16
	Claim must be returned to claimant:	(Yes)	<del>/</del> (No)
	Claimant must be notified of modifications:	(Yes)	⊥(No)
C1a	Ceipt Prepared by: Date: Date: Date: Date: Date:	Da	te: <u>7-4</u>
Cor	ments:		
		jiga γ <sub>α</sub> το αποίν	±*

See notes of file for 63-4338

Rec. as dissellowed

# IN THE DISTRICT COURT OF THE FIFTH JUDICIAL DISTRICT OF THE STATE OF IDAHO, IN AND FOR THE COUNTY OF TWIN FALLS

In Re SRBA	)	A.	Subcase Number: 63-4679
Case No. 39576	)		(Insert water right number)
	)		STANDARD FORM 1
	)		OBJECTION

Please fill in the following information:

#### B. NAME AND ADDRESS OF PERSON OBJECTING

Name:

State of Idaho,

Department of Fish and Game

Address:

600 S. Walnut St.

P. O. Box 25

Boise, Idaho 83707

Daytime Phone:

(208) 334-3700

Name and Address of Attorney, if any:

Attorney Name:

LAWRENCE G. WASDEN

Attorney General
CLIVE J. STRONG
Deputy Attorney General

Chief, Natural Resources Division DAVID J. BARBER (ISB # 2597)

Deputy Attorney General

Attorney Address:

Office of the Attorney General

JRW Building, Second Floor

700 West State Street P.O Box 44449

Boise, ID 83711-4449

Attorney Phone No. (208) 334-2400

Page - 1

S.F. 1 – Objection Amended 10-16-97

#### C. CLAIMANT OF WATER RIGHT AS LISTED IN DIRECTOR'S REPORT

Name:

STATE OF IDAHO

**DEPT OF FISH & GAME** 

Address:

PO Box 25

Boise, ID 836707

D.	I obj	ect to the following elements as recommended in the Director's Report. (Please
check	the ap	propriate box(es)).
1.	$\checkmark$	Name and Address
		Should be: See Attachment I.

Should be: See Attachment I.

3. ☑ Quantity

 $\square$ 

2.

Should be: See Attachment I.

4 ☑ Priority Date

Should be: See Attachment I.

5 Points of Diversion

Source

Should be: See Attachment I.

6. Instream Flow Description

Should be: Not applicable.

7. Durpose(s) of Use

Should be: See Attachment I.

8 Period of Year

Should be: See Attachment I.

9. Place of Use

Should be: See Attachment I.

10.  $\square$  Other Provisions

Should be:

1	l .	I	object	because:
---	-----	---	--------	----------

This water right should not exist.

M This water right was not recommended, but should be recommended with the elements described above.

#### Ε. REASONS SUPPORTING OBJECTION(S):

The State of Idaho, Department of Fish and Game, hereinafter "IDF&G," is the owner of the land at the place of use. It has maintained an active program of stocking fish since the 1920's It would like to retain this use of this reservoir.

#### F.

#### **VERIFICATION** (Must be Completed)

State of Idaho) County of Ada)

DAVID J. BARBER, Deputy Attorney General, duly sworn, upon oath, deposes and says:

That the State of Idaho, Department of Fish and Game, in its proprietary capacity is filing this objection and that I am a Deputy Attorney General authorized to represent the State of Idaho, Department of Fish and Game, which is a party/claimant in this proceeding, as defined by I.C. § 42-1401A(1) and (7), and I have read this objection, know its contents and believe that the statements are true to the best of my knowledge.

> LAWRENCE G. WASDEN Attorney General CLIVE J. STRONG Deputy Attorney General Chief, Natural Resources Division DAVID J. BARBER Deputy Attorney General

Subscribed and sworn to before me on: <u>June 26, 2007</u>
(Insert Date)

Notary Public for IDAHO Residing at: BOISE, ID

My commission expires:

S.F. 1 - Objection Amended 10-16-97 Page - 3

#### INSTRUCTIONS FOR MAILING

You must mail the objection to the Clerk of the Court. FAX filings will not be accepted. You must also send a copy to all the parties listed below in the Certificate of Mailing

#### G.

#### CERTIFICATE OF MAILING

I certify that on June 26, 2007, I caused the original and the copies of this objection, including all attachments, to be served on the following persons by the method designated:

1. Original to:

Clerk of the District Court Snake River Basin Adjudication 253 Third Avenue North Twin Falls, Idaho 83303 U.S. MAIL

2 One copy to the owner of the water right at the following address:

State of Idaho,
Department of Fish and Game
600 S. Walnut St
P. O. Box 25

Boise, Idaho 83707

STATEHOUSE MAIL

Copies to:

Special Master Theodore Booth

Snake River Basin Adjudication

253 Third Avenue North

PO Box 2707

Iwin Falls, ID 83303-2707

IDWR Document Depository

STATEHOUSE MAIL

PO Box 83720

Boise, ID 83720-0098

United States Department of Justice

Environment & Natural Resource Division

550 West Fort Street, MSC 033

Boise, ID 83724

Chief of Natural Resource Division

Office of the Attorney General

State of Idaho

P.O. Box 44449

Boise, Idaho 83711-4449

U.S. MAIL

US MAIL

(not applicable)

Signature of Objector or attorney Mailing on Objector's behalf

Page - 4

#### ATTACHMENT I

RIGHI NUMBER: 63-4679

NAME AND:

. . ,

ADDRESS:

SIAIE OF IDAHO

DEPI OF FISH & GAME

PO BOX 25

BOISE ID 83707

SOURCE: .

INDIAN CREEK

IRIBUIARY:

BOISE RIVER

QUANIIIY:

3000 AFY

PRIORITY

DATE:

01/01/1895

POINT OF

DIVERSION:

IO1N R04E S29

SWSW Within ADA County

IO1N R10E S30

SESE Within ADA County

PURPOSE AND PERIOD: OF USE:

PURPOSE OF USE

PERIOD OF USE

QUANTITY

FISH PROPAGALION

01/01 12/31

3,000 AFY

PLACE

UF USE:

FISH PROPAGATION Within ADA County

IO1N RO4E S28 NWSW IO1N RO4E S28 SWSW

IO1N RO4E \$29 SWNB

IOIN RO4E S29 NWNW IOIN RO4E S29 SWNW IOIN RO4E S29 SENW

IOIN RO4E S29 NESE IOIN RO4E S29 NWSE IOIN RO4E S29 SWSE IOIN RO4E S29 SESE

TOIN RO4E 530 NENE TOIN RO4E S30 SENE

IOIN RO4E S32 NENW IOIN RO4E S30 NWNW

OTHER PROVISIONS NECESSARY FOR DEFINITION OR ADMINISTRATION OF IHIS WATER RIGHT:

This partial decree is subject to such general provisions necessary for the definition of the rights or for the efficient administration of the water rights as may be ultimately determined by the Court at a point in time no later than the entry of a final unified decree Section 42-1412(6), Idaho

Code .

EXPLANATORY MAIERIAL: BASIS OF CLAIM - Beneficial Use



RECEIVED
JUN 2 7 2007
DEPARTMENT OF NATER RESOURCES

LAWRENCE G. WASDEN Attorney General

CLIVE J. STRONG Deputy Attorney General Chief, Natural Resources Division

DAVID I BARBER (ISB #2597) Deputy Attorney General P.O. Box 44449 Boise, Idaho 83711-4449 Telephone: (208) 334-2400 Facsimile: (208) 334-2690

## IN THE DISTRICT COURT OF THE FIFTH JUDICIAL DISTRICT OF THE STATE OF IDAHO, IN AND FOR THE COUNTY OF TWIN FALLS

In Re SRBA	)	Subcase No 63-4679
	j	MOTION TO FILE LATE OBJECTION
Case No. 39576	)	
	)	

The State of Idaho, Department of Fish and Game ("IDFG"), by and through the undersigned deputy attorney general, moves this Court to enter an order accepting for filing the attached Objection for the above-entitled subcase. The grounds for this motion are as follows:

Objections to water rights recommended in the Director's Report for Basin 63, Part 3, for Irrigation and Other Water Rights were due on June 20, 2007

- The undersigned deputy attorney general had discussed in a general way the preparation and filing of an objection for this water right with Dr. Poole of IDFG. However, no final decision had been made by June 18, 2007. The undersigned deputy attorney general attempted to contact Dr. Poole at IDFG on several occasions during the period from June 18-20, 2007 regarding the filing of an objection for this water right. He did not reach Dr. Poole until after the deadline. Affidavit of David J. Barber Dated June 25, 2007 at 1-2. A timely objection was not filed as a consequence.
- Water right no. 63-4679 provides water to a 3,000 acre foot storage reservoir known as "Indian Creek Reservoir," that the IDFG has stocked with cold water and warm water fish. Affidavit of Walton Poole Dated June 25, 2007 at 1-2. Recent years of drought have depleted the water and reduced the fishery. Since this reservoir is close to the largest metropolitan area of the State, it may provide a substantial recreational fishing opportunity to nearby residents
- While no timely objections have been filed to this water right, it is in the best interest of justice that the attached *Objection* be filed to resolve the issues raised by the movant.
  - 5. Oral argument is requested on this motion.

#### PRAYER FOR RELIEF

- 1. That the Court set this matter for hearing.
- 2. That the Court enters an order that directs the Clerk to file the attached Objection.
- That the Court grants such other and further relief as the Court deems just and proper.

### DATED this 26<sup>h</sup> day of June 2007.

LAWRENCE G WASDEN Attorney General

CLIVE J. STRONG Deputy Attorney General Chief, Natural Resources Division

DAVID J. BARBER
Deputy Attorney General
Natural Resources Division

#### CERTIFICATE OF SERVICE

I certify that on the 26<sup>th</sup> day of June 2007, I caused to be served the original and/or copy of this MOTION TO FILE LATE OBJECTION on each of the following persons by the indicated method

1.	Original to:	
2.	Clerk of the District Court Snake River Basin Adjudication 253 Third Avenue North PO Box 2707 Twin Falls, ID 83303-2707 Copies to	<ul> <li>☑ U.S. Mail, postage prepaid</li> <li>☐ Hand Delivery</li> <li>☐ Federal Express</li> <li>☐ Facsimile: (208) 736-2121</li> <li>☐ Statehouse Mail</li> </ul>
	Special Master Theodore Booth Snake River Basin Adjudication 253 Third Avenue North PO Box 2707 Twin Falls, ID 83303-2707	<ul> <li>☑ U.S. Mail, postage prepaid</li> <li>☐ Hand Delivery</li> <li>☐ Federal Express</li> <li>☐ Email: tbooth@srba.state.id.us</li> <li>☐ Facsimile:</li> <li>☐ Statehouse Mail</li> </ul>
	State of Idaho Dept. of Fish and Game PO Box 225 Boise, ID 83303	<ul> <li>☑ U S Mail, postage prepaid</li> <li>☐ Hand Delivery</li> <li>☐ Federal Express</li> <li>☐ Email: tbooth@srba.state.id.us</li> <li>☐ Facsimile:</li> <li>☐ Statehouse Mail</li> </ul>
	United States Department of Justice Environment and Natural Resource Division 550 West Fort Street, MSC 033 Boise, ID 83724	<ul> <li>☑ U.S. Mail, postage prepaid</li> <li>☐ Hand Delivery</li> <li>☐ Federal Express</li> <li>☐ Facsimile:</li> <li>☐ Statehouse Mail</li> </ul>
	IDWR Document Depository PO Box 83720 Boise, ID 83720-0098	<ul> <li>□ U.S Mail, postage prepaid</li> <li>□ Hand Delivery</li> <li>□ Federal Express</li> <li>□ Facsimile:</li> <li>☑ Statehouse Mail</li> </ul>
	Chief of Natural Resource Division Office of the Attorney General State of Idaho P O. Box 44449 Boise, Idaho 83711-4449	Not Applicable  Sealer
		DAVID I BARBER
		Deputy Attorney General
		· · · · · · · · · · · · · · · ·



RECEIVED

JUN 2 7 2007

OEPARTMENT OF NATER RESOURCES

LAWRENCE G. WASDEN Attorney General

CLIVE I STRONG
Deputy Attorney General
Chief, Natural Resources Division

DAVID I BARBER (ISB #2597) DAVID I STANISH (ISB #7310) Deputy Attorney General P.O. Box 44449 Boise, Idaho 83711-4449 Telephone: (208) 334-2400 Facsimile: (208) 334-2690

## IN THE DISTRICT COURT OF THE FIFTH JUDICIAL DISTRICT OF THE STATE OF IDAHO, IN AND FOR THE COUNTY OF TWIN FALLS

In Re SRBA		) Subcase No. 63-4679						
	} ) )	AFFIDAVIT JUNE 25, 200		DAVID	J.	BARBER	DATED	
Case No. 39576	) ) )	) ) )						
STATE OF IDAHO	) )ss							
County of Ada	)							

DAVID J. BARBER, being first duly sworn upon oath, deposes and states:

- I am a competent adult over the age of eighteen years, and the statements made herein are based upon my own personal knowledge of the events described.
- I had discussed with Dr. Walt Poole the possibility of filing an objection to the Director's recommendation to disallow water right no. 63-4679. I made a number of phone calls

to Dr. Poole beginning on June 18, 2007 through June 20, 2007 to find out what the present position of the agency was about an objection to the Director's recommendation of disallowal of this water right. I was not able to reach Dr. Poole until after the deadline.

3 Further your affiant sayeth naught

DAVID I BARBER

SUBSCRIBED AND SWORN to before me this 25th day of June 2007.

NOTARY PUBLIC FOR IDAHO

My Commission expires

#### CERTIFICATE OF MAILING

I certify that on this 26<sup>th</sup> day of June 2007, I caused to be served the original and copies of this AFFIDAVIT OF DAVID I BARBER DATED JUNE 25, 2007 on the following persons by the indicated methods:

1	Original to:	
	Clerk of the District Court Snake River Basin Adjudication 253 Third Avenue North PO Box 2707 Twin Falls, ID 83303-2707	<ul> <li>☑ U.S. Mail, postage prepaid</li> <li>☐ Hand Delivery</li> <li>☐ Federal Express</li> <li>☐ Facsimile: (208) 736-2121</li> <li>☐ Statehouse Mail</li> </ul>
2	Copies to	
	Special Master Theodore Booth Snake River Basin Adjudication 253 Third Avenue North PO Box 2707 Twin Falls, ID 83303-2707	<ul> <li>☑ U.S. Mail, postage prepaid</li> <li>☐ Hand Delivery</li> <li>☐ Federal Express</li> <li>☐ Email: <a href="mailto:tbooth@srba.state.id.us">tbooth@srba.state.id.us</a></li> <li>☐ Facsimile:</li> <li>☐ Statehouse Mail</li> </ul>
	State of Idaho Dept of Fish and Game P.O. Box 25 Boise, ID 83707	<ul> <li>□ U.S. Mail, postage prepaid</li> <li>□ Hand Delivery</li> <li>□ Federal Express</li> <li>□ Facsimile:</li> <li>□ Statehouse Mail</li> </ul>
	United States Department of Justice Environment and Natural Resource Division 550 West Fort Street, MSC 033 Boise, ID 83724	<ul> <li>☑ U.S. Mail, postage prepaid</li> <li>☐ Hand Delivery</li> <li>☐ Federal Express</li> <li>☐ Facsimile:</li> <li>☐ Statehouse Mail</li> </ul>
	IDWR Document Depository PO Box 83720 Boise, ID 83720-0098	<ul> <li>□ U.S. Mail, postage prepaid</li> <li>□ Hand Delivery</li> <li>□ Federal Express</li> <li>□ Facsimile:</li> <li>☑ Statehouse Mail</li> </ul>
	Chief of Natural Resource Division Office of the Attorney General State of Idaho P.O. Box 44449 Boise, Idaho 83711-4449	Not Applicable

DAVID J. BARBER

Deputy Attorney General



RECEIVED
JUN 2 7 2007
DEPARTMENT OF

**VATERBESOURCES** 

LAWRENCE G. WASDEN Attorney General

CLIVE J. STRONG
Deputy Attorney General
Chief, Natural Resources Division

DAVID J. BARBER (ISB #2597) Deputy Attorney General P.O. Box 44449 Boise, Idaho 83711-4449 Telephone: (208) 334-2400 Facsimile: (208) 334-2690

## IN THE DISTRICT COURT OF THE FIFTH JUDICIAL DISTRICT OF THE STATE OF IDAHO, IN AND FOR THE COUNTY OF TWIN FALLS

In Re SRBA	)	Subcase No. 63-4679
Case No. 39576	) ) ) )	AFFIDAVIT OF WALION POOLE DATED JUNE 25, 2007
STATE OF IDAHO	) ` ) ss.	
County of Ada	)	

WALTON POOLE, being first duly sworn upon oath, deposes and states:

I am a competent adult over the age of eighteen years, and the statements made herein are based upon my own personal knowledge of the events described.

- 2. I was awarded a Bachelor of Science degree in Biology from North Texas State University in 1971. I was awarded a Masters of Science degree in Biology / Aquatic Ecology from North Texas State University in 1973. I received my doctoral degree in Zoology / Aquatic Ecology from Idaho State University in 1981.
- I began working for the Idaho Department of Fish and Game in May, 2006 in the Natural Resources Policy Bureau as a Staff Biologist. One of my jobs is to coordinate with the Idaho Office of the Attorney General regarding matters pending before the Snake River Basin Adjudication.
- 4. The Idaho Department of Fish and Game has actively managed a warm water and cold water fishery in Indian Creek Reservoir for many years. This management has included the stocking of fish according to the stocking records described in Attachment I. Attachment I is a true and correct copy of records maintained by the Idaho Department of Fish and Game.

5. Further your affiant sayeth naught.

WALTON POOLE

SUBSCRIBED AND SWORN to before me this 25th day of June 2007.

NOTARY PUBLIC FOR IDAHO

My Commission Expires
August 31, 2011

Mary C. Boyn

### CERTIFICATE OF MAILING

I certify that on this 26<sup>th</sup> day of June 2007, I caused to be served the original and copies of this AFFIDAVIT OF WALTON POOLE DATED JUNE 25, 2007 on the following persons by the indicated methods:

1.	Original to:	
	Clerk of the District Court Snake River Basin Adjudication 253 Third Avenue North PO Box 2707 Twin Falls, ID 83303-2707	<ul> <li>☑ U.S. Mail, postage prepaid</li> <li>☐ Hand Delivery</li> <li>☐ Federal Express</li> <li>☐ Facsimile: (208) 736-2121</li> <li>☐ Statehouse Mail</li> </ul>
2.	Copies to	
	Special Master Theodore Booth Snake River Basin Adjudication 253 Third Avenue North PO Box 2707 Twin Falls, ID 83303-2707	<ul> <li>☑ U.S. Mail, postage prepaid</li> <li>☐ Hand Delivery</li> <li>☐ Federal Express</li> <li>☐ Email: tbooth@srba.state.id.us</li> <li>☐ Facsimile:</li> <li>☐ Statehouse Mail</li> </ul>
	State of Idaho Dept. of Fish and Game P.O. Box 25 Boise, ID 83707	<ul> <li>□ U.S. Mail, postage prepaid</li> <li>□ Hand Delivery</li> <li>□ Federal Express</li> <li>□ Facsimile:</li> <li>□ Statehouse Mail</li> </ul>
	United States Department of Justice Environment and Natural Resource Division 550 West Fort Street, MSC 033 Boise, ID 83724	<ul> <li>☑ U.S. Mail, postage prepaid</li> <li>☐ Hand Delivery</li> <li>☐ Federal Express</li> <li>☐ Facsimile:</li> <li>☐ Statehouse Mail</li> </ul>
	IDWR Document Depository PO Box 83720 Boise, ID 83720-0098	<ul> <li>☐ U.S. Mail, postage prepaid</li> <li>☐ Hand Delivery</li> <li>☐ Federal Express</li> <li>☐ Facsimile:</li> <li>☒ Statehouse Mail</li> </ul>
	Chief of Natural Resource Division Office of the Attorney General State of Idaho P.O. Box 44449 Boise, Idaho 83711-4449	Not Applicable
	•	1101136

Deputy Attorney General

Indian Creek Reservoir Stocking Records Prior to 1967

HATCHERY			EAGLE SALVAGE	EAGLE SALVAGE	EAGLE SALVAGE
POUNDS ASSOCIATION		D P RICH			
POUNDS		00.00	82.00	50.00	43.00
SIZE	(inches)		4	3-12	3
NUMBER		20000	3034	006	2021
SPECIES NUMBER		Perch	Perch	Catfish	Crappie
		INDIAN CREEK RES	INDIAN CREEK RES	INDIAN CREEK RES	INDIAN CREEK RES
 YEAR		1920	1951	1951	1951
DATE		10/13	11/15	11/15	11/15
COUNTY DATE YEAR			Ada	Ada	Ada

Indian Creek Reservoir Stocking Records 1967 - 2006

	-		Number
Date Stocked	Species Type	Size	Stocked
10/30/74	Unspecified Crappie	Fingerling (3-6 Inches)	2,000
10/30/79	Largemouth Bass	Catchable (6 Inches+)(ls)	009
08/80/20	Channel Catfish	Fry (0-3 Inches)	006
10/24/80	Bluegill	Catchable (6 Inches+)(ls)	10
10/24/80	Largemouth Bass	Fingerling (3-6 Inches)	40
10/24/80	Unspecified Crappie	Fingerling (3-6 Inches)	400
03/24/82	Unspecified Rainbow	Catchable (6 Inches+)(ls)	2,730
03/28/83	Unspecified Rainbow	Catchable (6 Inches+)(ls)	1,113
05/18/84	Unspecified Rainbow	Catchable (6 Inches+)(ls)	1,020
05/24/85	Unspecified Rainbow	Catchable (6 Inches+)(ls)	840
04/02/86	Mt Lassen Rainbow	Catchable (6 Inches+)(ls)	1,610

ATTACHMENT I

Page 1

02/20/87	Mt Lassen Rainbow	Catchable (6 Inches+)(1s)	1 007
03/11/88	Mt Lassen Rainhow	Catchable (6 Inches+)(1s)	1,007
00/10/100			510,1
05/04/88	Mt Lassen Kambow	Catchable (6 Inches+)(ls)	1,050
09/23/88	Channel Catfish	Fingerling (3-6 Inches)	100
03/31/89	Fish Lake Rainbow	Catchable (6 Inches+)(ls)	1,020
10/30/89	Lahontan Cutthroat	Fingerling (3-6 Inches)	5,616
04/02/90	Lahontan Cutthroat	Fingerling (3-6 Inches)	6,325
04/20/90	Unspecified Rainbow	Catchable (6 Inches+)(ls)	1,955
08/23/90	Lahontan Cutthroat	Fingerling (3-6 Inches)	5,438
11/01/90	Domestic Kamloops	Fingerling (3-6 Inches)	2,040
02/27/91	Unspecified Rambow	Catchable (6 Inches+)(ls)	2,000
04/09/91	Hayspur Rainbow	Fingerling (3-6 Inches)	15,120
04/09/91	Mt Lassen Rainbow	Catchable (6 Inches+)(ls)	3,072
09/13/91	Channel Catfish	Fingerling (3-6 Inches)	1,002
09/18/91	Hayspur Rainbow	Fingerling (3-6 Inches)	5,000
09/30/93	Channel Catfish	Fingerling (3-6 Inches)	3,000
09/29/98	Channel Catfish	Fingerling (3-6 Inches)	1,650
02/01/06	Bluegill	Fingerling (3-6 Inches)	95
02/01/06	Largemouth Bass	Catchable (6 Inches+)(ls)	487
05/02/06	Bluegill	Fingerling (3-6 Inches)	349
05/25/06	Bluegill	Fingerling (3-6 Inches)	85
90/90/90	Bluegill	Fingerling (3-6 Inches)	458

### IDAHO DEPARTMENT OF WATER RESOURCES PRELIMINARY RECOMMENDATION OF WATER RIGHTS ACQUIRED UNDER STATE LAW

RIGHT NUMBER:

63-4679

NAME AND ADDRESS: STATE OF IDAHO

DEPT OF FISH & GAME

PO BOX 25 BOISE ID 83707

SOURCE:

INDIAN CREEK

TRIBUTARY: BOISE RIVER

QUANTITY:

3,000.000 AFY

PRIORITY DATE:

01/01/1895

POINT OF DIVERSION:

TOIN RO4E S29 SWSW Within ADA County

TOIN RO4E S30 SESE Within ADA County

PURPOSE AND PERIOD OF USE:

	PURPOSE OF USE		PERIOD OF USE		<u>QUANTITY</u>
	FISH PROPAGATION		1/01 12/31		3,000.00 AFY
PLACE OF USE:	FISH PROPAGATION in A	ADA County			
	T01N R04E S28	NWSW	TOIN RO4E	\$28	swsw
	T01N R04E S29	SWNE	T01N R04E	S29	NWNW
	T01N R04E S29	SWNW	T01N R04E	S29	SENW
	T01N R04E S29	NESW	T01N R04E	S29	NWSW
	T01N R04E S29	swsw	TO1N RO4E	S29	SESW
	T01N R04E S29	NESE	T01N R04E	S29	NWSE
	TO1N R04E S29	SWSE	T01N R04E	S29	SESE
	T01N R04E S30	NENE	T01N R04E	s30	SENE
	TO1N RO4E S30	NESE	T01N R04E	s30	SESE
	T01N R04E S32	NENW	T01N R04E	S32	NWNW

OTHER PROVISIONS NECESSARY FOR DEFINITION OR ADMINISTRATION OF THIS WATER RIGHT:

IDFG HAS A FLOOD EASEMENT WITH BLM.

No beneficial use found.

EXPLANATORY MATERIAL: BASIS OF CLAIM -

> No beneficial use found: This is included for a claim based on beneficial use that is proposed to be disallowed because beneficial use of water was not confirmed by IDWRs field examination or by other evidence submitted by the claimant.

Page 1

09/15/2006

#### IDAHO DEPARTMENT OF WATER RESOURCES

Adjudication Claim Report 63-4679

WATER RIGHT NUMBER: 63-4679

Owner Type

Name and Address

Current Owner

STATE OF IDAHO **DEPT OF FISH & GAME** 

PO BOX 25 BOISE, ID 83707 (208)334-3700

Priority Date: 01/01/1895 -

Basis:

Statutory Claim

Status:

Active

Source

**Tributary** 

**BOISE RIVER** 

Beneficial Use

INDIAN CREEK

From To

Diversion Rate

Annual Volume

FISH PROPAGATION

1/01 to 12/31

3,000.00 AF

3,000.00 AF

Location of Point(s) of Diversion

**INDIAN CREEK** 

SW1/4SW1/4

Total Diversion:

Sec. 29, Twp 01N, Rge 04E, B.M.

**ADA County** 

INDIAN CREEK

SE1/4SE1/4

Sec. 30, Twp 01N, Rge 04E, B.M.

**ADA County** 

#### Place of Use

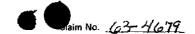
FISH PROPAGATION

	NE	NW	l sw	-	E
01N 04E 28   	<u>SW   SE   NE</u>   	I <u>nw</u> I <u>sw</u> Is	SE INE INWISW I	<u>SE   NE   NW  </u>   	SW   SE   Totals   
01N 04E 29	x	х х	x i x x x	x i x x	x x l
01N 04E 30   X	x		1	X 	x I
01N 04E 32	j X I	x		¦	

#### Conditions of Approval:

IDFG HAS A FLOOD EASEMENT WITH BLM. 1,





### STATE OF IDAHO DEPARTMENT OF WATER RESOURCES

#### **CLAIM TO A WATER RIGHT**

Under the provisions of Section 42-243, Idaho Code, any person using or claiming rights to the public waters of Idaho established by eliversion and application to a beneficial use must file a claim with the Department of Water Resources on or before June 30, 1983. Exempted from this filing are <u>single</u> family domestic uses as defined in Section 42-230(d), Idaho Code. Also exempted are rights represented by a permit, license, decree, adjudicated right, or a previously filed claim.

P. O. Box 25, 600 So. Walnut, Boise, ID  (Mailing Address)  (Audiling Address)  (Audil	P. (		- (-,,,,,	X. Bi A6	d that	<u> </u>	ace	71 1	danc	, ,	part				and	3 681	ne			
(Mailing Address)  (Mailing Address)  (Zip Code)  Iaims a right to the diversion and beneficial use of the surface or ground water. The extent and nature of said claim is as pllows:  10 Date of priority: (When was the water first applied to a beneficial use)  A claim is not acceptable on a ground water source with a priority later than March 25, 1963 or on a surface water source with a priority later than May 20, 1971. An exception is that a claim may be filed on single family domestic use from a ground water source.  Describe the source of water: (Name of stream, lake, spring, etc., or ground water)  Indian Creek  (Indian Creek  Indian Creek  (Soth dates inclusive)  (Goth dates inclusive)  (Indian Creek)  (I		). Bo	x 25,	600	So.	Wa1	nut,	Boi	se,	ΙD				Claim	iant)	Tele	phone	No.	384-	3730
Date of priority: (When was the water first applied to a beneficial use)   Year of 1895					(M	ailing	Addre	;ss}					(Z	ip Co	de)					
A claim is not acceptable on a ground water source with a priority later than March 25, 1963 or on a surface water source with a priority later than May 20, 1971. An exception is that a claim may be filed on single family domestic use from a ground water source.  2) Describe the source of water: (Name of stream, lake, spring, etc., or ground water) 1 Indian Creek the source of water: (Name of stream, lake, spring, etc., or ground water) 1 Indian Creek the source of water: (Name of stream, lake, spring, etc., or ground water) 1 Indian Creek the purpose for which the water has been used and the time during the year when you have used the right claimed:  (ets, gad, AFA)  Ouantity 3,000 AFA Use Storage for wildlife Period of Use From Use (Name, Day) (Name, Day) (Name, Day)  Ouantity Use Period of Use From To Period of Use From To Ouantity Use Period of Use From To Period of Use From To Ouantity Use SE x SE x, Sec. 30 Twp. 1 N Rge. 4 E B.M. County of Ada Additional points of diversion: SWESWA, Sec. 29, Twounship 1 North, Range 4 East, Boise Meridian. Head of the reservoir is located in the NWSWA of Sec. 28, T. 1 N. R. 4  B) Describe means of diversion of water: (Pump and pipeline, well, diversion dam, reservoir, length of ditch and field, etc.). Give sizes and capacities: be as specific as possible. Describe any changes in the system and give the date of the change. Dam, earth and rock fill, 1900' in length - average height 18', reservoir area 379.42 acres. Dam was constructed in 1895  A) Describe location of use by listing number of irrigated acres within each 40-acre tract in appropriate box. If use is not for Irrigation, place an "X" in appropriate box to show location.  The Rec. Nex Naws Sex Naws Sex Naws Sex Naws Sex Naws Sex Naws Sex N	llows	r.										•						nature	of sa	íd claim is as
A claim is not acceptable on a ground water source with a priority later than March 25, 1963 or on a surface water source with a priority later than May 20, 1971. An exception is that a claim may be filed on single family domestic use from a ground water source.  2) Describe the source of water: (Name of stream, lake, spring, etc., or ground water) 1 Indian Creek the source of water: (Name of stream, lake, spring, etc., or ground water) 1 Indian Creek the source of water: (Name of stream, lake, spring, etc., or ground water) 1 Indian Creek the purpose for which the water has been used and the time during the year when you have used the right claimed:  (ets, gad, AFA)  Ouantity 3,000 AFA Use Storage for wildlife Period of Use From Use (Name, Day) (Name, Day) (Name, Day)  Ouantity Use Period of Use From To Period of Use From To Ouantity Use Period of Use From To Period of Use From To Ouantity Use SE x SE x, Sec. 30 Twp. 1 N Rge. 4 E B.M. County of Ada Additional points of diversion: SWESWA, Sec. 29, Twounship 1 North, Range 4 East, Boise Meridian. Head of the reservoir is located in the NWSWA of Sec. 28, T. 1 N. R. 4  B) Describe means of diversion of water: (Pump and pipeline, well, diversion dam, reservoir, length of ditch and field, etc.). Give sizes and capacities: be as specific as possible. Describe any changes in the system and give the date of the change. Dam, earth and rock fill, 1900' in length - average height 18', reservoir area 379.42 acres. Dam was constructed in 1895  A) Describe location of use by listing number of irrigated acres within each 40-acre tract in appropriate box. If use is not for Irrigation, place an "X" in appropriate box to show location.  The Rec. Nex Naws Sex Naws Sex Naws Sex Naws Sex Naws Sex Naws Sex N	) (	ate of	priorit	y: (Wh	nen w	as the	water	first	applie	d to	a bene	ficial	use) _	Year	<u>of</u>	189	5			
Indian Creek  Describe the purpose for which the water has been used and the time during the year when you have used the right claimed:  (fit, apd, AFA)  (Comestic, trigetion, Stock, Etc.)  (Bath dates inclusive)  (Bath da	<b>S</b>	A Ource v ground	claim i vith a p water	is not priority source	accep y later e.	table ·	on a g May 2	round 10, 197	wate 71, An	r sour	rce wid ption i	hap sthat	riority a clai	later m may	than y be fi	March	25,			
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etc.). Give sizes and capacities: be as specific as possible. Describe any changes in the system and give the date of the change. Dam, earth and rock fill, 1900' in length - average height 18', reservoir area 379.42 acres. Dam was constructed in 1895  A) Describe location of use by listing number of irrigated acres within each 40-acre tract in appropriate box. If use is not for irrigation, place an "X" in appropriate box to show location.  The sec. Nex	ĺ	erid	ian.	Head	dof	the	rese	ervo	ir i	s lo	cate	d in	the	NN1	ιS₩¾	of S	ec.	28,	T. 1	N., R. 4
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270.40	T	R	28 29 30	NE%	_	SWX			NW% X	SW1%			X	SW%		X	NOWY	SW%		TOTAL
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the formal to send the article of the first send	T N	P 4 E	28 29 30 32	NE%	NW/S4	X	X	X	X X	X X	X	X	XX	SW14 X X	X	X	X	X X	X	
B) If water is used for other than irrigation, fully describe that use, being as specific as possible:	T N	A E	28 29 30 32	NE%	NW%	X X	X X	X X	X X fully	SW/% X	X X	X X	NWX X X	SW14 X X	X	X X	X	X X No. of	X	379.42
Storage for propagation of game fish and wildlife and for public recreation use.	T N	A E	28 29 30 32	NE%	nw4	X X	x X	ation,	X X	X X	X X ibe th	X X	, bein	g as sife a	X X	X X	X	No. of	X X acres	379.42
Storage for propagation of game fish and wildlife and for public recreation use.  The primary use of the reservoir has been for game fish wildlife, and public.	T N	R 4 E 5 If we Structure The	28 29 30 32	NEX X seed for	prothuse	x X	n irrig	ation, of (eser	fully game	descr fis	X X	X X	, bein	g as sefe a	X X pecific nd f	X X X	X X pssible	No. of	X X acres	379.42
Storage for propagation of game fish and wildlife and for public recreation use.  The primary use of the reservoir has been for game fish, wildlife, and public recreation since 1955. Prior to 1955, propagation of game fish and wildlife	T N	P 4 E Street	28 29 30 32 32 atter is a primage prim	NE%	or other propuse ince	X X X X X X X X X X X X X X X X X X X	X X tion he r	ation, of (eser	x X X Yully game voiv r to	descr fis has	ibe the	X X	, bein	g as sife a	X X nd f	X X X	x X	No. of	acres and p	379.42
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Remarks The Idaho Dept. of Fish and Game has been assigned all rights, title and interest of the dam and reservoir area formerly owned by the Indian Creek Reservoir, Ditch and Irrigation Company, Limited, together with all of its water rights as decreed in that court case of Indian Creek Res. vs. Orchard Fruit Co., Third Judicial Court dated May 25, 1908 filed of record in Book G of Judgments at page 608, Instrument #882, Ada County, Idaho. The amount of water decreed was 50,000 miners inches. TOWNSHIP I NORTH, RANGE 4 EAST, BOISE MERID AN, ADA COUNTY, IDAHO. femilids. Paginosia Pine Scale: 2 inches equal 1 mile, Map should show the location of the point of diversion and the place of use of the water by 40-acre subdivisions, section, township and range of the public land survey system. State of Idaho ) ss. County of \_\_\_ Be it known that the undersigned, being duly sworn, deposes and says that he, she, they subscribed the foregoing claim to a water right, together with all attached information, and that the matters and facts therein are true to the best of the affiant's knowledge. Notary Public Boise, Idaho Residing at My commission expires OR DEPARTMENT USE ONLY Date Exception filed by: Fowarded to Received by claimant by: Date Prelim, check by \_

\$20.00 fee received by \_\_\_\_\_\_\_\_Date Published in \_\_\_\_\_StateSman

Dates \_\_\_\_\_\_8/23 & 8/30/79

The Idaho Dept. of Fish and Game has been assigned all rights, title and